

Case 1:03-cr-00248-DAE Document 82-11 Filed 01/11/2007 Page 1 of 5

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Attorney for Defendant

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

AUG 31 2006

at 10 o'clock and 25 min.  
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 03-00248 DAE
	)	
Plaintiff,	)	NOTICE OF HEARING
	)	MOTION; MOTION FOR
vs.	)	WITHDRAWAL AND
	)	SUBSTITUTION OF COUNSEL;
SAMUEL KAAUWAI, III,	)	DECLARATION OF COUNSEL;
	)	CERTIFICATE OF SERVICE
Defendant.	)	
_____	)	

NOTICE OF HEARING MOTION

TO: Assistant U.S. Attorney Marshall Silverberg  
300 Ala Moana Blvd., Room 6-100  
Honolulu, Hawaii 96850

PLEASE TAKE NOTICE that Defendant, by and through his counsel, Glenn Choy, will bring the MOTION FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL on for hearing before Honorable \_\_\_\_\_, Judge of the above-entitled court, in his/her courtroom at the Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Honolulu, Hawaii on \_\_\_\_\_, the \_\_\_\_ day of September, 2006 at the hour of \_\_\_\_\_ o'clock a.m./p.m. of said day, or as soon thereafter as counsel can be heard.

DATED: Honolulu, Hawaii, August 31, 2006.

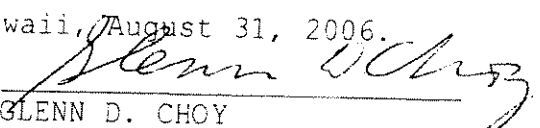
  
GLENN D. CHOY  
Attorney for Defendant

EXHIBIT 9

EXHIBIT "C"

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

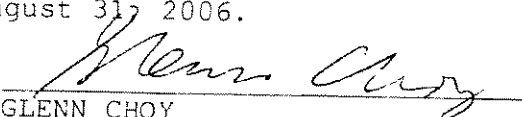
UNITED STATES OF AMERICA,	)	CR. NO. 03-00248 DAE
	)	
Plaintiff,	)	
	)	
vs.	)	MOTION FOR
	)	WITHDRAWAL AND
	)	SUBSTITUTION OF COUNSEL
SAMUEL KAAUWAI, III,	)	
	)	
Defendant.	)	
	)	
	)	

MOTION FOR WITHDRAWAL AND SUBSTITUTION OF COUNSEL

COMES NOW SAMUEL KAAUWAI, III, through counsel GLENN CHOY, and hereby moves this Court for an order granting withdrawal and substitution of counsel, permitting Glenn D. Choy to withdraw as counsel, and for appointment of substitute CJA panel counsel.

This motion is based on FRCP 12(b), 46(C), 47, Crim. LR 57.9, and Title 18 USC Sec. 3143.

DATED: August 31, 2006.

  
\_\_\_\_\_  
GLENN CHOY  
Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 03-00248 DAE
	)	
Plaintiff,	)	
	)	DECLARATION OF COUNSEL
vs.	)	
	)	
SAMUEL KAAUWAI, III,	)	
	)	
Defendant.	)	
	)	
	)	

DECLARATION OF COUNSEL

I, GLENN CHOY, hereby declare as follows:

1. Declarant is the court-appointed attorney for Defendant;
2. Defendant's sentencing is scheduled for October 16, 2006 at 1:30 p.m.;
3. Defendant is charged with being a felon in possession of a firearm; in the subject incident, an individual named Rayna Batara was found carrying a backpack containing a firearm which law enforcement personnel attributed to the constructive possession of Defendant;
4. Declarant has discussed the instant motion with Defendant, and states on information and belief that:
  - a. Defendant has given Declarant to believe that he believes he is innocent of the charged offense;
  - b. Defendant has given Declarant to believe that he feels that matters such as the concept of legal possession, the credibility and strength of prosecution witnesses, and Fourth Amendment issues have been inadequately explained to Defendant;
  - c. Defendant believes that, being uneducated

and unversed in reasoning on issues in his case, inadequate time and attention has been devoted by counsel to explaining pertinent matters to him;

d. Defendant believes that Declarant has provided ineffective assistance to him;

5. Declarant's view of matters above-raised differs from the apparent view of Defendant; Declarant and Defendant thus differ as to the basis to go forward and proceed to sentencing;

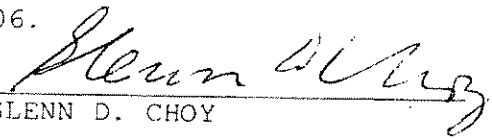
6. Said differences between Declarant and Defendant has caused fundamental difficulties in proceeding to sentencing;

7. Disagreements above-described appear intractable and amount to an irretrievable breakdown in the attorney-client relationship;

8. Wherefore, the granting of Declarant's withdrawal and appointment of substitute counsel is requested;

I HEREBY DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

EXECUTED ON AUGUST 31, 2006.

  
GLENN D. CHOY

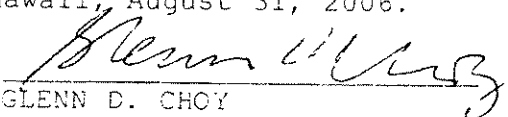
CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of  
the foregoing document was duly mailed and/or hand-  
delivered to the following on the date of filing:

MARSHALL SILVERBERG  
Assistant United States Attorney  
PJKK Federal Building  
300 Ala Moana Boulevard, Room 6-100  
Honolulu, Hawaii 96813

Attorney for Plaintiff  
UNITED STATES OF AMERICA

DATED: Honolulu, Hawaii, August 31, 2006.

  
GLENN D. CHOY  
Attorney for Defendant